

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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| IN RE: WILLIAM CREGGETT YOLANDA NIGALE CREGGETT DEBTOR(S) | § § § | CASE NO.: 10-33473 |
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**OBJECTION TO BAC HOME LOAN SERVICING, LP'S
NOTICE OF MORTGAGE PAYMENT CHANGE, DOCKET #139**

THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE. YOU SHOULD IMMEDIATELY CONTACT THE OBJECTING PARTY TO RESOLVE THE DISPUTE. IF YOU DO NOT REACH AN AGREEMENT, YOU MUST FILE A RESPONSE TO THIS OBJECTION AND SEND A COPY OF YOUR RESPONSE TO THE OBJECTING PARTY WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE OBJECTION IS NOT VALID. IF YOU DO NOT FILE A RESPONSE WITHIN 21 DAYS AFTER THE OBJECTION WAS SERVED ON YOU, YOUR CLAIM MAY BE DISALLOWED.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Debtor(s), file this Objection to Claim - Notice of Mortgage Payment Change and would show the court the follows:

1. The Debtor(s) filed this case on April 29, 2010.
2. The plan was confirmed on September 16, 2010.
3. BAC Home Loan Servicing, LP filed a Notice of Mortgage Payment Change (*hereinafter referred as "Notice"*) on October 2, 2012 (docket #139).

(*See the attached Notice, as exhibit 'A'*).

4. The Debtors dispute the proposed adjustment for the following reasons:

a. The Debtors believe the amount of post petition escrow balance \$11988.38 is inaccurate. Neither BAC Home Loan Servicing, LP, or any entity on behalf of BAC Home Loan Servicing, LP have filed any documents with the court advising the Debtors, the Trustee, or Debtors' counsel for any change in the escrow account since the last Notice of Mortgage payment change was filed on 5/31/2010 docket #29. The 5/31/2010 Notice of Mortgage payment change does not show any post-petition escrow balance.

b. BAC Home Loan Servicing, LP has failed to itemize the alleged payment of \$11988.38, such as whom did they pay to, how much did they pay, and the purposes of the payment. BAC Home Loan Servicing, LP has also failed to attach proof of payment. The Debtors are unable to verify the payment.

c. The Court approved Debtor's Motion to Modify a Confirmed on May 31, 2012, docket #129. The modified plan provides for the post-petition mortgage payment for the months #21 through #25 are included in the plan as post-petition arrears. The Debtors are unsure if BAC Home Loan Servicing, LP has included the portion of escrow payment of those months in the post petition escrow balance.

- d. In addition, the Trustee filed (docket #113) Notice of Bar State for Asserting Claim for Post-petition Charges Accruing on Residential Mortgage Claims on November 29, 2011. Due to BAC Home Loan Servicing, LP has failed to disclose the details of the post-petition escrow payment, Debtors are unsure if the BAC Home Loan Servicing, LP is barred from collecting any escrow shortage.
5. This is in violation of Bankruptcy Rule 3001.1(b).
6. Pursuant to Bankruptcy Rule 3002.(i), when BR 3002.1(b) is violated, the Court may take either or both of the following action: (a) preclude Americas from presenting any omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case; (b) award attorney's fees and reasonable expenses caused by the failure.
7. In this case, the Debtor requests the Court to deny the Notice of Mortgage Payment Change, preclude any evidence whatever in support of Notice of Mortgage Payment Change as it was filed untimely, and award fees and expenses to the undersigned attorney and against BAC Home Loan Servicing, LP in the amount of at least \$750.00.

WHEREFORE, PREMISES CONSIDERED, Debtor(s) respectfully requests the Court to deny the Notice of Mortgage Payment Change (docket #139), award at least \$750.00 for attorney fees and expenses to the

undersigned attorney, and for such other and further relief which the Court deems just and proper.

Date: October 22, 2012

Respectfully Submitted,
/S/ Wai Ping Cheung
Wai Ping Cheung, Attorney for Debtor(s)
State Bar No. : 24031942 / SDN: 32094
5959 West Loop South, Suite #242
Bellaire, Texas 77401
Tel.: (713) 266-8856 Fax.: 713-266-5001

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 22, 2012, a true and correct copy of the foregoing was served electronically or by U.S. First Class mail, postage pre-paid, on all parties in interest listed on the below list:

Respectfully Submitted,
/S/ Wai Ping Cheung
Wai Ping Cheung
State Bar No. : 24031942
Federal Admission No.: 32094
5959 West Loop South, Suite 242
Bellaire, TX 77410
Tel.: (713) 266-8856 Fax.: 713-266-5001

Creditor: BAC Home Loan Servicing, LP, Bankruptcy Department, Mail Stop CA-919-01-23, 400 National Way, Simi Valley, CA 93065

William Heitkamp, Chapter 13 trustee, 9821 Katy Freeway, Ste 590, Houston, TX 77024

US Trustee, Suite #3516, 515 Rusk, Houston, TX 77002